

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Medicaid Services

3 Division of Policy and Operations

4 (Amended After Comments)

5 907 KAR 1:082. Coverage provisions and requirements regarding rural health clinic  
6 services.

7 RELATES TO: KRS 205.520, 314.011, 319.050, 335.100, 42 C.F.R 400.203, 42  
8 C.F.R. 405.2401(b), 405.2412-405.2417, 405.2450, 405.2452, 405.2468, 440.20, 42  
9 C.F.R. 491.1-491.11, 42 U.S.C. 1395x(aa) and (hh)

10 STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)

11 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family  
12 Services, Department for Medicaid Services has responsibility to administer the Medi-  
13 caid Program. KRS[Chapter] 205.520(3) authorizes the cabinet, by administrative regu-  
14 lation, to comply with any requirement that may be imposed or opportunity presented by  
15 federal law to qualify for federal Medicaid funds[for the provision of medical assistance  
16 to Kentucky's indigent citizenry]. This administrative regulation establishes the Medicaid  
17 Program coverage provisions and requirements relating to [coverage of] rural health  
18 clinic services[for which payment shall be made by the Medicaid Program on behalf of  
19 both categorically needy and medically needy].

20 Section 1. Definitions. (1) "Advanced practice registered nurse[practitioner]" is de-  
21 fined by KRS [Chapter] 314.011(7).

(2) "Certified social worker" means an individual who:

(a) Meets the requirements established in KRS 335.080; and

(b) Has at least a master's degree in social work.

~~(3) ["Clinical psychologist" means a doctorate level psychologist who is li-~~  
~~censed in accordance with KRS 319.050.~~

~~(4)~~ "Club house model of psychosocial rehabilitation" means a form of psychosocial  
rehabilitation that focuses on self-help, friendship, emotional support, acceptance, and  
meaningful and gainful employment.

~~(4)~~~~(5)~~ "Community support associate" means an individual who:

(a) Meets the community support associate requirements established in 908 KAR  
2:250; and

(b) Has been certified by the Department for Behavioral Health, Intellectual and  
Developmental Disabilities as a community support associate.

~~(5)~~~~(6)~~~~(3)~~ "Department" means the Department for Medicaid Services or its design-  
ee.

~~(6)~~~~(7)~~ "Enrollee" means a recipient who is enrolled with a managed care organiza-  
tion.

~~(7)~~~~(8)~~ "Face-to-face" means occurring:

(a) In person; or

(b) Via a real-time, electronic communication that involves two (2) way interactive  
video and audio communication.

~~(8)~~~~(9)~~ "Family peer support specialist" means an individual who meets the re-  
quirements for a Kentucky family peer support specialist established in 908 KAR

**2:230.**

**(10)** "Federal financial participation" is defined in 42 C.F.R. 400.203.

**(9)[(11)]** "Fountain House" means the professional self-help program located in New York City about which information is available on the Web site of <http://www.fountainhouse.org/>.

**(10)[(12)]** "Homebound recipient" is defined by 42 C.F.R. 440.20(b)(4)(iv).

**(11)[(13)]** "Intermittent nursing care" is defined by 42 C.F.R. 405.2401(b).

**(12)[(14)]** "Licensed clinical social worker" means an individual who meets the licensed clinical social worker requirements established in KRS 335.100.

**(13)[(15)]** "Licensed marriage and family therapist" is defined by KRS 335.300(2).

**(14)[(16)]** "Licensed professional clinical counselor" is defined by KRS 335.500(3).

**(15)[(17)]** "Licensed professional counselor associate" is defined by KRS 335.500(3).

**(16)[(18)]** "Licensed psychological associate" means:

**(a)** An individual who:

**1.[(a)]** Currently possesses a licensed psychological associate license in accordance with KRS 319.010(6); and

**2.[(b)]** Meets the licensed psychological associate requirements established in 201 KAR Chapter 26; **or**

**(b)** A certified psychologist.

**(17)[(19)]** "Licensed psychological practitioner" means:

**(a)** An individual who meets the requirements established in KRS 319.053; **or**

**(b)** A certified psychologist with autonomous functioning.

**(18)[(20)]** "Licensed psychologist" means an individual who:

(a) Currently possesses a licensed psychologist license in accordance with KRS 319.010(6); and

(b) Meets the licensed psychologist requirements established in 201 KAR Chapter 26.

~~(19)~~~~(21)~~ "Managed care organization" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.

~~(20)~~~~(22)~~ "Marriage and family therapy associate" is defined by KRS 335.300(3).

~~(21)~~~~(23)~~~~(7)~~ "Medically necessary" means that a covered benefit or service is necessary in accordance with~~[the provisions of] 907 KAR 3:130~~~~[, Section 2].~~

~~(22)~~~~(24)~~~~(8)~~ ~~["Nurse-midwife" is defined by 42 C.F.R. 405.2401(b).~~

~~(25)~~~~(9)~~ "Other ambulatory services" is defined by 42 C.F.R. 440.20(c).

~~(23)~~~~(26)~~~~(10)~~ "Part-time nursing care" is defined by 42 C.F.R. 405.2401(b).

~~(24)~~~~(27)~~ ~~"Peer support specialist" means an individual who meets the peer specialist qualifications established in 908 KAR 2:220.~~

~~(28)~~~~(11)~~ "Physician" is defined by KRS 205.510(11) and 42 C.F.R. 405.2401(b).

~~(25)~~~~(29)~~~~(12)~~ "Physician assistant" is defined by KRS 311.840(3) and 42 C.F.R. 405.2401(b).

~~(26)~~~~(30)~~ ~~"Qualified mental health professional" is defined by KRS 202A.011(12).~~

~~(31)~~ "Recipient" is defined by KRS 205.8451(9).

~~(27)~~~~(32)~~~~(13)~~ "Rural health clinic" or "RHC" is defined by 42 C.F.R. 405.2401(b).

~~(28)~~~~(33)~~~~(14)~~ "State plan" is defined by 42 C.F.R. 400.203.

1 ~~(29)~~~~[(34)]~~~~[(45)]~~ "Visiting nurse services" is defined by 42 C.F.R. 405.2401(b).

2 ~~[(35) "Youth peer support specialist" means an individual who meets the re-~~  
3 ~~quirements established for a Kentucky youth peer support specialist established~~  
4 ~~in 908 KAR 2:240.]~~

5 Section 2. Covered Services Other Than Behavioral Health Services. The depart-  
6 ment shall cover the following medically necessary rural health clinic services furnished  
7 by an RHC that has been certified in accordance with 42 C.F.R. 491.1 through 491.11:

8 (1) Services pursuant to 42 U.S.C. 1395x(aa);

9 (2) Services provided by a physician if the physician:

10 (a) Complies with the physician responsibility requirements established by 42 C.F.R.  
11 491.8(b); and

12 (b)1. Performs the services in an RHC; or

13 2. Is compensated under an agreement with an RHC for providing services furnished  
14 to a Medicaid eligible RHC patient in a location other than the RHC;

15 (3) Services provided by a physician assistant ~~or~~~~[,]~~ advanced practice registered  
16 nurse~~[practitioner]~~~~[,] or nurse midwife~~ who is employed by or receives compensation  
17 from the RHC if the services:

18 (a) Are furnished by a member of the RHC's staff who complies with the responsibil-  
19 ity requirements established by 42 C.F.R. 491.8(c);

20 (b) Are furnished under the medical supervision of a physician except for services  
21 furnished by an APRN as these services shall not be required to be furnished un-  
22 der the medical supervision of a physician;

23 (c) Are furnished in accordance with a medical order for the care and treatment of a

1 patient as prepared by a physician;

2 (d) Are within the provider's legally-authorized scope of practice; and

3 (e) Would be covered if furnished by a physician;

4 (4) Services or supplies furnished as an incident to services provided by a physician,  
5 physician assistant, or advanced practice registered nurse[~~practitioner~~], ~~or nurse~~  
6 ~~midwife~~] if the service or supply meets the criteria established in 42 C.F.R. 405.2413 or  
7 42 C.F.R. 405.2415;

8 (5) Part-time or intermittent visiting nurse care and related supplies, except for drugs  
9 or biologicals, if:

10 (a) The RHC is located in an area where a determination has been made that there  
11 is a shortage of home health agencies pursuant to 42 C.F.R. 405.2417;

12 (b) The services are provided by a registered nurse, licensed practical nurse, or a li-  
13 censed vocational nurse who is employed by or compensated for the services by the  
14 RHC; and

15 (c) The services are furnished to a homebound recipient under a written plan of  
16 treatment that is:

17 1. Established and reviewed at least every sixty (60) days by a supervising physician  
18 of the RHC; or

19 2. Established by a physician, physician assistant, or advanced practice registered  
20 nurse[~~practitioner~~], ~~or nurse midwife~~] and reviewed and approved at least every sixty  
21 (60) days by a supervising physician of the RHC; or

22 (6)~~[Behavioral health services provided by a clinical psychologist, licensed clinical~~  
23 ~~social worker, or advanced registered nurse practitioner if the services are:~~

1       ~~(a) Provided by an individual who is employed by or furnishes services under con-~~  
2 ~~tract to the RHC; and~~

3       ~~(b) Within the provider's legally authorized scope of practice;~~

4       ~~(7) Services or supplies incident to a clinical psychologist's or licensed clinical social~~  
5 ~~worker's behavioral health services if the service or supply meets the criteria estab-~~  
6 ~~lished in 42 C.F.R. 405.2452; and~~

7       ~~(8)] Other ambulatory services as established in the state plan.~~

8       Section 3. Behavioral Health Services. (1) Except as specified in the requirements  
9 stated for a given service, the services covered may be provided for:

10       (a) A mental health disorder;

11       (b) A substance use disorder; or

12       (c) Co-occurring mental health and substance use disorders.

13       (2) The department shall cover, and a rural health clinic may provide, the following  
14 services:

15       (a) Behavioral health services provided by a **licensed[clinical]** psychologist, li-  
16 censed clinical social worker, or advanced practice registered nurse within the provid-  
17 er's legally authorized scope of service; or

18       (b) Services or supplies incidental to a **licensed[clinical]** psychologist's or licensed  
19 clinical social worker's behavioral health services if the service or supply meets the cri-  
20 teria established in Title 42 C.F.R.

21       (3) In addition to the services referenced in subsection (2) of this section, the follow-  
22 ing behavioral health services provided by a rural health clinic shall be covered under  
23 this administrative regulation in accordance with the corresponding following require-

1 ments:

2 (a) A screening provided by:

3 1. A licensed psychologist;

4 2. A licensed professional clinical counselor;

5 3. A licensed clinical social worker;

6 4. A licensed marriage and family therapist;

7 5. A physician;

8 6. A psychiatrist;

9 7. An advanced practice registered nurse;

10 8. A licensed psychological practitioner;

11 9. A licensed psychological associate working under the supervision of a licensed  
12 psychologist if the licensed psychologist is the billing provider for the service;

13 10. A licensed professional counselor associate working under the supervision of a  
14 licensed professional clinical counselor if the licensed professional clinical counselor is  
15 the billing provider for the service;

16 11. A certified social worker working under the supervision of a licensed clinical so-  
17 cial worker if the licensed clinical social worker is the billing provider for the service;

18 12. A marriage and family therapy associate working under the supervision of a li-  
19 censed marriage and family therapist if the licensed marriage and family therapist is the  
20 billing provider for the service; or

21 13. A physician assistant working under the supervision of a physician if the physi-  
22 cian is the billing provider for the service;

23 (b) An assessment provided by:



1. A licensed psychologist;
2. A licensed professional clinical counselor;
3. A licensed clinical social worker;
4. A licensed marriage and family therapist;
5. A physician;
6. A psychiatrist;
7. An advanced practice registered nurse;
8. A licensed psychological practitioner;
9. A licensed psychological associate working under the supervision of a licensed  
10 psychologist if the licensed psychologist is the billing provider for the service;
- 11 10. A licensed professional counselor associate working under the supervision of a  
12 licensed professional clinical counselor if the licensed professional clinical counselor is  
13 the billing provider for the service;
- 14 11. A certified social worker working under the supervision of a licensed clinical so-  
15 cial worker if the licensed clinical social worker is the billing provider for the service;
- 16 12. A marriage and family therapy associate working under the supervision of a li-  
17 censed marriage and family therapist if the licensed marriage and family therapist is the  
18 billing provider for the service; or
- 19 13. A physician assistant working under the supervision of a physician if the physi-  
20 cian is the billing provider for the service;
- 21 (c) Psychological testing provided by:
- 22 1. A licensed psychologist;
- 23 2. A licensed psychological practitioner; or

1     3. A licensed psychological associate working under the supervision of a licensed  
2 psychologist if the licensed psychologist is the billing provider for the service;

3     (d) Crisis intervention provided by:

4     1. A licensed psychologist;

5     2. A licensed professional clinical counselor;

6     3. A licensed clinical social worker;

7     4. A licensed marriage and family therapist;

8     5. A physician;

9     6. A psychiatrist;

10    7. An advanced practice registered nurse;

11    8. A licensed psychological practitioner;

12    9. A licensed psychological associate working under the supervision of a licensed  
13 psychologist if the licensed psychologist is the billing provider for the service;

14    10. A licensed professional counselor associate working under the supervision of a  
15 licensed professional clinical counselor if the licensed professional clinical counselor is  
16 the billing provider for the service;

17    11. A certified social worker working under the supervision of a licensed clinical so-  
18 cial worker if the licensed clinical social worker is the billing provider for the service;

19    12. A marriage and family therapy associate working under the supervision of a li-  
20 censed marriage and family therapist if the licensed marriage and family therapist is the  
21 billing provider for the service; or

22    13. A physician assistant working under the supervision of a physician if the physi-  
23 cian is the billing provider for the service;

1 ~~[14. A peer support specialist working under the supervision of a mental health~~  
2 ~~professional;~~

3 ~~15. A family peer support specialist working under the supervision of a mental~~  
4 ~~health professional; or~~

5 ~~16. A youth peer support specialist working under the supervision of a mental~~  
6 ~~health professional;]~~

7 (e) Service planning provided by:

8 1. A licensed psychologist;

9 2. A licensed professional clinical counselor;

10 3. A licensed clinical social worker;

11 4. A licensed marriage and family therapist;

12 5. A physician;

13 6. A psychiatrist;

14 7. An advanced practice registered nurse;

15 8. A licensed psychological practitioner;

16 9. A licensed psychological associate working under the supervision of a licensed  
17 psychologist if the licensed psychologist is the billing provider for the service;

18 10. A licensed professional counselor associate working under the supervision of a  
19 licensed professional clinical counselor if the licensed professional clinical counselor is  
20 the billing provider for the service;

21 11. A certified social worker working under the supervision of a licensed clinical so-  
22 cial worker if the licensed clinical social worker is the billing provider for the service;

23 12. A marriage and family therapy associate working under the supervision of a li-

censed marriage and family therapist if the licensed marriage and family therapist is the  
billing provider for the service; or

13. A physician assistant working under the supervision of a physician if the physi-  
cian is the billing provider for the service;

(f) Individual outpatient therapy provided by:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. A licensed psychological practitioner;

9. A licensed psychological associate working under the supervision of a licensed  
psychologist if the licensed psychologist is the billing provider for the service;

10. A licensed professional counselor associate working under the supervision of a  
licensed professional clinical counselor if the licensed professional clinical counselor is  
the billing provider for the service;

11. A certified social worker working under the supervision of a licensed clinical so-  
cial worker if the licensed clinical social worker is the billing provider for the service;

12. A marriage and family therapy associate working under the supervision of a li-  
censed marriage and family therapist if the licensed marriage and family therapist is the  
billing provider for the service; or

1     13. A physician assistant working under the supervision of a physician if the physi-  
2     cian is the billing provider for the service;

3     (g) Family outpatient therapy provided by:

4     1. A licensed psychologist;

5     2. A licensed professional clinical counselor;

6     3. A licensed clinical social worker;

7     4. A licensed marriage and family therapist;

8     5. A physician;

9     6. A psychiatrist;

10    7. An advanced practice registered nurse;

11    8. A licensed psychological practitioner;

12    9. A licensed psychological associate working under the supervision of a licensed  
13    psychologist if the licensed psychologist is the billing provider for the service;

14    10. A licensed professional counselor associate working under the supervision of a  
15    licensed professional clinical counselor if the licensed professional clinical counselor is  
16    the billing provider for the service;

17    11. A certified social worker working under the supervision of a licensed clinical so-  
18    cial worker if the licensed clinical social worker is the billing provider for the service;

19    12. A marriage and family therapy associate working under the supervision of a li-  
20    censed marriage and family therapist if the licensed marriage and family therapist is the  
21    billing provider for the service; or

22    13. A physician assistant working under the supervision of a physician if the physi-  
23    cian is the billing provider for the service;

1 (h) Group outpatient therapy provided by:

2 1. A licensed psychologist;

3 2. A licensed professional clinical counselor;

4 3. A licensed clinical social worker;

5 4. A licensed marriage and family therapist;

6 5. A physician;

7 6. A psychiatrist;

8 7. An advanced practice registered nurse;

9 8. A licensed psychological practitioner;

10 9. A licensed psychological associate working under the supervision of a licensed  
11 psychologist if the licensed psychologist is the billing provider for the service;

12 10. A licensed professional counselor associate working under the supervision of a  
13 licensed professional clinical counselor if the licensed professional clinical counselor is  
14 the billing provider for the service;

15 11. A certified social worker working under the supervision of a licensed clinical so-  
16 cial worker if the licensed clinical social worker is the billing provider for the service;

17 12. A marriage and family therapy associate working under the supervision of a li-  
18 censed marriage and family therapist if the licensed marriage and family therapist is the  
19 billing provider for the service; or

20 13. A physician assistant working under the supervision of a physician if the physi-  
21 cian is the billing provider for the service;

22 (i) Collateral outpatient therapy provided by:

23 1. A licensed psychologist;

2. A licensed professional clinical counselor;
  3. A licensed clinical social worker;
  4. A licensed marriage and family therapist;
  5. A physician;
  6. A psychiatrist;
  7. An advanced practice registered nurse;
  8. A licensed psychological practitioner;
  9. A licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service;
  10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service;
  11. A certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;
  12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service; or
  13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;
- (j) A screening, brief intervention, and referral to treatment for a substance use disorder provided by:
1. A licensed psychologist;
  2. A licensed professional clinical counselor;

- 1     3. A licensed clinical social worker;
- 2     4. A licensed marriage and family therapist;
- 3     5. A physician;
- 4     6. A psychiatrist;
- 5     7. An advanced practice registered nurse;
- 6     8. A licensed psychological practitioner;
- 7     9. A licensed psychological associate working under the supervision of a licensed
- 8 psychologist if the licensed psychologist is the billing provider for the service;
- 9     10. A licensed professional counselor associate working under the supervision of a
- 10 licensed professional clinical counselor if the licensed professional clinical counselor is
- 11 the billing provider for the service;
- 12     11. A certified social worker working under the supervision of a licensed clinical so-
- 13 cial worker if the licensed clinical social worker is the billing provider for the service;
- 14     12. A marriage and family therapy associate working under the supervision of a li-
- 15 censed marriage and family therapist if the licensed marriage and family therapist is the
- 16 billing provider for the service; or
- 17     13. A physician assistant working under the supervision of a physician if the physi-
- 18 cian is the billing provider for the service;
- 19     (k) Medication assisted treatment for a substance use disorder provided by:
- 20         1. A physician; **[or]**
- 21         2. A psychiatrist; **or**
- 22         **3. An advanced practice registered nurse;**
- 23     (l) Day treatment provided by~~[ a team of at least two (2) of the following]~~:



1. A licensed psychologist;
2. A licensed professional clinical counselor;
3. A licensed clinical social worker;
4. A licensed marriage and family therapist;
5. A physician;
6. A psychiatrist;
7. An advanced practice registered nurse;
8. A licensed psychological practitioner;
9. A licensed psychological associate working under the supervision of a licensed  
10 psychologist if the licensed psychologist is the billing provider for the service;
- 11 10. A licensed professional counselor associate working under the supervision of a  
12 licensed professional clinical counselor if the licensed professional clinical counselor is  
13 the billing provider for the service;
- 14 11. A certified social worker working under the supervision of a licensed clinical so-  
15 cial worker if the licensed clinical social worker is the billing provider for the service;
- 16 12. A marriage and family therapy associate working under the supervision of a li-  
17 censed marriage and family therapist if the licensed marriage and family therapist is the  
18 billing provider for the service; or
- 19 13. A physician assistant working under the supervision of a physician if the physi-  
20 cian is the billing provider for the service;
- 21 ~~14. A peer support specialist working under the supervision of a mental health~~  
22 ~~professional;~~
- 23 ~~15. A family peer support specialist working under the supervision of a mental~~

health professional; or

~~16. A youth peer support specialist working under the supervision of a mental~~

health professional;]

(m) Comprehensive community support services provided by~~[ a team of at least two~~  
(2) of the following]:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. A licensed psychological practitioner;

9. A licensed psychological associate working under the supervision of a licensed  
psychologist if the licensed psychologist is the billing provider for the service;

10. A licensed professional counselor associate working under the supervision of a  
licensed professional clinical counselor if the licensed professional clinical counselor is  
the billing provider for the service;

11. A certified social worker working under the supervision of a licensed clinical so-  
cial worker if the licensed clinical social worker is the billing provider for the service;

12. A marriage and family therapy associate working under the supervision of a li-  
censed marriage and family therapist if the licensed marriage and family therapist is the  
billing provider for the service;

1 13. A physician assistant working under the supervision of a physician if the physi-  
2 cian is the billing provider for the service; or

3 14. [A peer support specialist working under the supervision of a mental health  
4 professional;

5 15. A family peer support specialist working under the supervision of a mental  
6 health professional;

7 16. A youth peer support specialist working under the supervision of a mental  
8 health professional; or

9 17.] A community support associate;

10 (n) [Peer support provided by:

11 —1. A peer support specialist working under the supervision of a mental health  
12 professional;

13 —2. A family peer support specialist working under the supervision of a mental  
14 health professional; or

15 —3. A youth peer support specialist working under the supervision of a mental  
16 health professional;

17 —(e) Mobile crisis services provided by a team of at least two (2) of the following:

18 —1. A licensed psychologist;

19 —2. A licensed professional clinical counselor;

20 —3. A licensed clinical social worker;

21 —4. A licensed marriage and family therapist;

22 —5. A physician;

23 —6. A psychiatrist;

- 1 ~~— 7. An advanced practice registered nurse;~~
- 2 ~~— 8. A licensed psychological practitioner;~~
- 3 ~~— 9. A licensed psychological associate working under the supervision of a li-~~  
4 ~~censed psychologist if the licensed psychologist is the billing provider for the~~  
5 ~~service;~~
- 6 ~~— 10. A licensed professional counselor associate working under the supervision~~  
7 ~~of a licensed professional clinical counselor if the licensed professional clinical~~  
8 ~~counselor is the billing provider for the service;~~
- 9 ~~— 11. A certified social worker working under the supervision of a licensed clini-~~  
10 ~~cal social worker if the licensed clinical social worker is the billing provider for~~  
11 ~~the service;~~
- 12 ~~— 12. A marriage and family therapy associate working under the supervision of a~~  
13 ~~licensed marriage and family therapist if the licensed marriage and family thera-~~  
14 ~~pist is the billing provider for the service;~~
- 15 ~~— 13. A physician assistant working under the supervision of a physician if the~~  
16 ~~physician is the billing provider for the service;~~
- 17 ~~— 14. A peer support specialist working under the supervision of a mental health~~  
18 ~~professional;~~
- 19 ~~— 15. A family peer support specialist working under the supervision of a mental~~  
20 ~~health professional; or~~
- 21 ~~— 16. A youth peer support specialist working under the supervision of a mental~~  
22 ~~health professional;~~
- 23 ~~— (p) Assertive community treatment provided by a team that includes at least~~

two (2) of the following:

1. A licensed psychologist;

2. A licensed professional clinical counselor;

3. A licensed clinical social worker;

4. A licensed marriage and family therapist;

5. A physician;

6. A psychiatrist;

7. An advanced practice registered nurse;

8. A licensed psychological practitioner;

9. A licensed psychological associate working under the supervision of a licensed psychologist if the licensed psychologist is the billing provider for the service;

10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service;

11. A certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;

12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service;

13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;

1 ~~— 14. A peer support specialist working under the supervision of a mental health~~  
2 ~~professional;~~

3 ~~— 15. A family peer support specialist working under the supervision of a mental~~  
4 ~~health professional; or~~

5 ~~— 16. A youth peer support specialist working under the supervision of a mental~~  
6 ~~health professional;~~

7 ~~— (g) Intensive outpatient program provided by [ a team that includes at least two (2)~~  
8 ~~of the following]:~~

9 1. A licensed psychologist;

10 2. A licensed professional clinical counselor;

11 3. A licensed clinical social worker;

12 4. A licensed marriage and family therapist;

13 5. A physician;

14 6. A psychiatrist;

15 7. An advanced practice registered nurse;

16 8. A licensed psychological practitioner;

17 9. A licensed psychological associate working under the supervision of a licensed  
18 psychologist if the licensed psychologist is the billing provider for the service;

19 10. A licensed professional counselor associate working under the supervision of a  
20 licensed professional clinical counselor if the licensed professional clinical counselor is  
21 the billing provider for the service;

22 11. A certified social worker working under the supervision of a licensed clinical so-  
23 cial worker if the licensed clinical social worker is the billing provider for the service;

1 12. A marriage and family therapy associate working under the supervision of a li-  
2 censed marriage and family therapist if the licensed marriage and family therapist is the  
3 billing provider for the service; or

4 13. A physician assistant working under the supervision of a physician if the physi-  
5 cian is the billing provider for the service;

6 **(o)(r) Residential crisis stabilization provided by a team of at least two (2) of**  
7 **the following:**

8 **1. A licensed psychologist;**

9 **— 2. A licensed professional clinical counselor;**

10 **— 3. A licensed clinical social worker;**

11 **— 4. A licensed marriage and family therapist;**

12 **— 5. A physician;**

13 **— 6. A psychiatrist;**

14 **— 7. An advanced practice registered nurse;**

15 **— 8. A licensed psychological practitioner;**

16 **— 9. A licensed psychological associate working under the supervision of a li-**  
17 **censed psychologist if the licensed psychologist is the billing provider for the**  
18 **service;**

19 **— 10. A licensed professional counselor associate working under the supervision**  
20 **of a licensed professional clinical counselor if the licensed professional clinical**  
21 **counselor is the billing provider for the service;**

22 **— 11. A certified social worker working under the supervision of a licensed clini-**  
23 **cal social worker if the licensed clinical social worker is the billing provider for**

the service;

— 12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service;

— 13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;

— 14. A peer support specialist working under the supervision of a mental health professional;

— 15. A family peer support specialist working under the supervision of a mental health professional; or

— 16. A youth peer support specialist working under the supervision of a mental health professional;

— (s) Residential services for a substance use disorder provided by a team of at least two (2) of the following;

— 1. A licensed psychologist;

— 2. A licensed professional clinical counselor;

— 3. A licensed clinical social worker;

— 4. A licensed marriage and family therapist;

— 5. A physician;

— 6. A psychiatrist;

— 7. An advanced practice registered nurse;

— 8. A licensed psychological practitioner;

— 9. A licensed psychological associate working under the supervision of a li-



censed psychologist if the licensed psychologist is the billing provider for the service;

~~10. A licensed professional counselor associate working under the supervision of a licensed professional clinical counselor if the licensed professional clinical counselor is the billing provider for the service;~~

~~11. A certified social worker working under the supervision of a licensed clinical social worker if the licensed clinical social worker is the billing provider for the service;~~

~~12. A marriage and family therapy associate working under the supervision of a licensed marriage and family therapist if the licensed marriage and family therapist is the billing provider for the service;~~

~~13. A physician assistant working under the supervision of a physician if the physician is the billing provider for the service;~~

~~14. A peer support specialist working under the supervision of a mental health professional;~~

~~15. A family peer support specialist working under the supervision of a mental health professional; or~~

~~16. A youth peer support specialist working under the supervision of a mental health professional;~~

~~(t) Therapeutic rehabilitation program services provided by a team of at least two (2) of the following individuals]:~~

1. A licensed psychologist;

2. A licensed professional clinical counselor;

- 1     3. A licensed clinical social worker;
- 2     4. A licensed marriage and family therapist;
- 3     5. A physician;
- 4     6. A psychiatrist;
- 5     7. An advanced practice registered nurse;
- 6     8. A licensed psychological practitioner;
- 7     9. A licensed psychological associate working under the supervision of a licensed
- 8 psychologist if the licensed psychologist is the billing provider for the service;
- 9     10. A licensed professional counselor associate working under the supervision of a
- 10 licensed professional clinical counselor if the licensed professional clinical counselor
- 11 is the billing provider for the service;
- 12     11. A certified social worker working under the supervision of a licensed clinical so-
- 13 cial worker if the licensed clinical social worker is the billing provider for the service;
- 14     12. A marriage and family therapy associate working under the supervision of a li-
- 15 censed marriage and family therapist if the licensed marriage and family therapist is the
- 16 billing provider for the service; or
- 17     13. A physician assistant working under the supervision of a physician if the physi-
- 18 cian is the billing provider for the service[;]
- 19     **14. A peer support specialist working under the supervision of a mental health**
- 20 **professional;**
- 21 ~~— **15. A family peer support specialist working under the supervision of a mental**~~
- 22 ~~**health professional; or**~~
- 23 ~~— **16. A youth peer support specialist working under the supervision of a mental**~~

health professional; or

~~—(u) Parent or family peer support provided by:~~

~~1. A peer support specialist working under the supervision of a mental health professional;~~

~~2. A family peer support specialist working under the supervision of a mental health professional; or~~

~~3. A youth peer support specialist working under the supervision of a mental health professional].~~

(4)(a) A screening shall:

1. Be the determination of the likelihood that an individual has a mental health disorder, a substance use disorder, or co-occurring disorders;

2. Not establish the presence or specific type of disorder; and

3. Establish the need for an in-depth assessment.

(b) An assessment shall:

1. Include gathering information and engaging in a process with the individual that enables the provider to:

a. Establish the presence or absence of a mental health disorder or substance use disorder;

b. Determine the individual's readiness for change;

c. Identify the individual's strengths or problem areas that may affect the treatment and recovery processes; and

d. Engage the individual in developing an appropriate treatment relationship;

2. Establish or rule out the existence of a clinic disorder or service need;

1 3. Include working with the individual to develop a treatment and service plan; and

2 4. Not include a psychological or psychiatric evaluation or assessment.

3 (c) Psychological testing shall include:

4 1. A psychodiagnostic assessment of personality, psychopathology, emotionality, or  
5 intellectual disabilities; and

6 2. Interpretation and a written report of testing results.

7 (d) Crisis intervention:

8 1. Shall be a therapeutic intervention for the purpose of immediately reducing or  
9 eliminating the risk of physical or emotional harm to:

10 a. The recipient; or

11 b. Another individual;

12 2. Shall consist of clinical intervention and support services necessary to provide in-  
13 tegrated crisis response, crisis stabilization interventions, or crisis prevention activities  
14 for an individual with a behavioral health disorder;

15 3. Shall be provided:

16 a. On-site at a rural health clinic[In an office, home, or community setting  
17 where the individual is experiencing the crisis];

18 b. As an immediate relief to the presenting problem or threat; and

19 c. In a face-to-face, one-on-one encounter between the provider and the recipient;

20 4. May include verbal de-escalation, risk assessment, or cognitive therapy; and

21 5. Shall be followed by a referral to non-crisis services if applicable.

22 (e)1. Service planning shall consist of assisting a recipient in creating an individual-  
23 ized plan for services needed to maintain functional stability or return to stability as

soon as possible in order to avoid out-of-home care.

2. A service plan:

a. Shall be directed by the recipient; and

b. May include:

(i) A mental health advance directive being filed with a local hospital;

(ii) A crisis plan; or

(iii) A relapse prevention strategy or plan.

(f) Individual outpatient therapy shall:

1. Be provided to promote the:

a. Health and wellbeing of the individual; or

b. Recovery from a substance related disorder;

2. Consist of:

a. A face-to-face, one-on-one encounter between the provider and recipient; and

b. A behavioral health therapeutic intervention provided in accordance with the recipient's identified treatment plan;

3. Be aimed at:

a. Reducing adverse symptoms;

b. Reducing or eliminating the presenting problem of the recipient; and

c. Improving functioning; and

4. Not exceed three (3) hours per day.

(g)1. Family outpatient therapy shall consist of a face-to-face behavioral health therapeutic intervention provided:

a. Through scheduled therapeutic visits between the therapist and the recipient and

1 at least one (1) member of the recipient's family; and

2 b. To address issues interfering with the relational functioning of the family and to  
3 improve interpersonal relationships within the recipient's home environment.

4 2. A family outpatient therapy session shall be billed as one (1) service regardless of  
5 the number of individuals, including multiple members from one (1) family, who partici-  
6 pate in the session.

7 (h)1. Group outpatient therapy shall:

8 a. Be provided to promote the:

9 (i) Health and wellbeing of the individual; or

10 (ii) Recovery from a substance related disorder;

11 b. Consist of a face-to-face behavioral health therapeutic intervention provided in ac-  
12 cordance with the recipient's identified treatment plan;

13 c. Be provided to a recipient in a group setting:

14 (i) Of nonrelated individuals; and

15 (ii) Not to exceed eight (8) individuals in size;

16 d. Center on goals including building and maintaining healthy relationships, personal  
17 goals setting, and the exercise of personal judgment;

18 e. Not include physical exercise, a recreational activity, an educational activity, or a  
19 social activity; and

20 f. Not exceed three (3) hours per day.

21 2. The group shall have a:

22 a. Deliberate focus; and

23 b. Defined course of treatment.

1     3. The subject of a group receiving group outpatient therapy shall be related to each  
2 recipient participating in the group.

3     4. The provider shall keep individual notes regarding each recipient within the group  
4 and within each recipient's health record.

5     (i) 1. Collateral outpatient therapy shall:

6     a. Consist of a face-to-face behavioral health consultation:

7     (i) With a parent or caregiver of a recipient, household member of a recipient, legal  
8 representative of a recipient, school personnel, treating professional, or other person  
9 with custodial control or supervision of the recipient; and

10    (ii) That is provided in accordance with the recipient's treatment plan; and

11    b. Not be reimbursable if the therapy is for a recipient who is at least twenty-one (21)  
12 years of age.

13    2. Consent to discuss a recipient's treatment with any person other than a parent or  
14 legal guardian shall be signed and filed in the recipient's health record.

15    (j) Screening, brief intervention, and referral to treatment for a substance use disor-  
16 der shall:

17    1. Be an evidence-based early intervention approach for an individual with non-  
18 dependent substance use to provide an effective strategy for intervention prior to the  
19 need for more extensive or specialized treatment; and

20    2. Consist of:

21    a. Using a standardized screening tool to assess an individual for risky substance  
22 use behavior;

23    b. Engaging a recipient who demonstrates risky substance use behavior in a short

conversation and providing feedback and advice; and

c. Referring a recipient to:

(i) Therapy; or

(ii) Other additional services to address substance use if the recipient is determined to need other additional services.

(k) Medication assisted treatment for a substance use disorder:

1. Shall include:

a. Any opioid addiction treatment that includes a United States Food and Drug Administration-approved medication for the detoxification or maintenance treatment of opioid addiction along with counseling or other supports;

b. Comprehensive maintenance;

c. Medical maintenance;

d. Interim maintenance;

e. Detoxification; or

f. Medically supervised withdrawal;

2. May be provided in:

a. An opioid treatment program;

b. A medication unit affiliated with an opioid treatment program;

c. A physician's office **except for methadone**; or

d. Other community setting; and

3. Shall increase the likelihood for cessation of illicit opioid use or prescription opioid abuse.

(l)1. Day treatment shall be a nonresidential, intensive treatment program designed



for a child under the age of twenty-one (21) years who has:

a. An emotional disability or neurobiological or substance use disorder; and

b. A high risk of out-of-home placement due to a behavioral health issue.

2. Day treatment services shall:

a. Consist of an organized, behavioral health program of treatment and rehabilitative services (substance use disorder, mental health, or co-occurring mental health and substance use disorders);

b. Have unified policies and procedures that:

(i) Address the program philosophy, admission and discharge criteria, admission and discharge process, staff training, and integrated case planning; and

(ii) Have been approved by the recipient's local education authority and the day treatment provider;

c. Include:

(i) Individual outpatient therapy, family outpatient therapy, or group outpatient therapy;

(ii) Behavior management and social skill training;

(iii) Independent living skills that correlate to the age and development stage of the recipient; or

(iv) Services designed to explore and link with community resources before discharge and to assist the recipient and family with transition to community services after discharge; and

d. Be provided:

(i) In collaboration with the education services of the local education authority includ-

ing those provided through 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act) or 29 U.S.C. 701 et seq. (Section 504 of the Rehabilitation Act);

(ii) On school days and during scheduled breaks;

(iii) In coordination with the recipient's individual educational plan if the recipient has an individual educational plan;

(iv) Under the supervision of a licensed or certified behavioral health practitioner or a behavioral health practitioner working under clinical supervision; and

(v) With a linkage agreement with the local education authority that specifies the responsibilities of the local education authority and the day treatment provider.

3. To provide day treatment services, an RHC shall have:

a. The capacity to employ staff authorized to provide day treatment services in accordance with subsection (3)(l) of this section and to coordinate the provision of services among team members;

b. The capacity to provide the full range of ~~residential crisis stabilization~~ services as stated in subparagraph 1 of this paragraph;

c. Demonstrated experience in serving individuals with behavioral health disorders;

d. The administrative capacity to ensure quality of services;

e. A financial management system that provides documentation of services and costs;

f. The capacity to document and maintain individual case records; and

g. Knowledge of substance use disorders.

4. Day treatment shall not include a therapeutic clinical service that is included in a child's individualized education plan.

1 (m)1. Comprehensive community support services shall:

2 a. Be activities necessary to allow an individual to live with maximum independence  
3 in community-integrated housing;

4 b. Be intended to ensure successful community living through the utilization of skills  
5 training, cueing, or supervision as identified in the recipient's treatment plan;

6 c. Include:

7 (i) Reminding a recipient to take medications and monitoring symptoms and side ef-  
8 fects of medications; or

9 (ii) Teaching parenting skills, teaching community resource access and utilization,  
10 teaching emotional regulation skills, teaching crisis coping skills, teaching how to shop,  
11 teaching about transportation, teaching financial management, or developing and en-  
12 hancing interpersonal skills; and

13 d. Meet the requirements for comprehensive community support services established  
14 in 908 KAR 2:250.

15 2. To provide comprehensive community support services, an RHC shall have:

16 a. The capacity to employ staff authorized to provide comprehensive community  
17 support services in accordance with subsection (3)(m) of this section and to coordinate  
18 the provision of services among team members;

19 b. The capacity to provide the full range of comprehensive community support ser-  
20 vices as stated in subparagraph 1 of this paragraph;

21 c. Demonstrated experience in serving individuals with behavioral health disorders;

22 d. The administrative capacity to ensure quality of services;

23 e. A financial management system that provides documentation of services and

costs; and

f. The capacity to document and maintain individual case records.

(n)1. [Peer support services shall:

a. Be social and emotional support that is provided by an individual who is experiencing a mental health disorder, a substance use disorder, or co-occurring mental health and substance use disorders to a recipient by sharing a similar mental health disorder, a substance use disorder, or co-occurring mental health and substance use disorders in order to bring about a desired social or personal change;

b. Be an evidence-based practice;

c. Be structured and scheduled nonclinical therapeutic activities with an individual recipient or a group of recipients;

d. Be provided by a self-identified consumer or parent or family member of a child consumer of mental health disorder services, substance use disorder services, or co-occurring mental health and substance use disorders services who has been trained and certified in accordance with 908 KAR 2:220;

e. Promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills for the recipient; and

f. Be identified in each recipient's treatment plan.

2. To provide peer support services, an RHC shall:

a. Have demonstrated the capacity to provide the core elements of peer support services for the behavioral health population being served including the age range of the population being served;

- ~~b. Employ peer support specialists who are qualified to provide peer support services in accordance with 908 KAR 2:220;~~
- ~~c. Use a qualified mental health professional to supervise peer support specialists;~~
- ~~d. Have the capacity to employ staff authorized to provide peer support in accordance with subsection (3)(n) of this section and to coordinate the provision of services among team members;~~
- ~~e. Have the capacity to provide the full range of comprehensive community support services as stated in subparagraph 1 of this paragraph;~~
- ~~f. Have demonstrated experience in serving individuals with behavioral health disorders;~~
- ~~g. Have the administrative capacity to ensure quality of services;~~
- ~~h. Have a financial management system that provides documentation of services and costs; and~~
- ~~i. Have the capacity to document and maintain individual case records.~~
- ~~(o)1. Mobile crisis services shall:~~
- ~~a. Be available twenty-four (24) hours a day, seven (7) days a week, every day of the year; and~~
- ~~b. Be a crisis response in a home or community setting to provide an immediate evaluation, triage, and access to acute substance use disorder services including treatment and supports to:~~
- ~~(i) Reduce symptoms or harm; or~~
- ~~(ii) Safely transition an individual in an acute crisis to appropriate crisis stabili-~~

~~zation and detoxification supports or services.~~

~~2. To provide mobile crisis services, an RHC shall have:~~

~~a. The capacity to employ staff authorized to provide mobile crisis services in accordance with subsection (3)(c) of this section and to coordinate the provision of services among team members;~~

~~b. The capacity to provide the full range of residential crisis stabilization services as stated in this paragraph and on a twenty-four (24) hour a day, seven (7) day a week, every day of the year basis;~~

~~c. Access to a board certified or board-eligible psychiatrist twenty-four (24) hours a day, seven (7) days a week, every day of the year;~~

~~d. Demonstrated experience in serving individuals with behavioral health disorders;~~

~~e. The administrative capacity to ensure quality of services;~~

~~f. A financial management system that provides documentation of services and costs;~~

~~g. The capacity to document and maintain individual case records; and~~

~~h. Knowledge of substance use disorders.~~

~~(p)1. Assertive community treatment shall:~~

~~a. Be an evidence-based psychiatric rehabilitation practice which provides a comprehensive approach to service delivery for individuals with a serious mental illness;~~

~~b. Use a multidisciplinary team of at least two (2) of the following professionals;~~

- 1    ~~—(i) A psychiatrist;~~  
2    ~~—(ii) A nurse;~~  
3    ~~—(iii) A case manager; or~~  
4    ~~—(iv) A therapist; and~~  
5    ~~—c. Include:~~  
6    ~~—(i) Assessment;~~  
7    ~~—(ii) Treatment planning;~~  
8    ~~—(iii) Case management;~~  
9    ~~—(iv) Psychiatric services;~~  
10   ~~—(v) Medication management administration;~~  
11   ~~—(vi) Individual outpatient therapy;~~  
12   ~~—(vii) Family outpatient therapy;~~  
13   ~~—(viii) Group outpatient therapy;~~  
14   ~~—(ix) Mobile crisis intervention;~~  
15   ~~—(x) Mental health consultation; or~~  
16   ~~—(xi) Family support and basic living skills.~~  
17   ~~—2. To provide assertive community treatment services, an RHC shall:~~  
18   ~~—a. Employ one (1) or more teams:~~  
19   ~~—(i) Led by a qualified mental health professional; and~~  
20   ~~—(ii) Comprised of at least four (4) full-time equivalents including a prescriber, a~~  
21   ~~nurse, a qualified mental health professional, a case manager, or a co-occurring~~  
22   ~~disorders specialist;~~  
23   ~~—b. Have adequate staffing to ensure that no caseload size exceeds ten (10) par-~~

participants per team member;

~~c. Have the capacity to employ staff authorized to provide assertive community treatment services in accordance with subsection (3)(p) of this section and to coordinate the provision of services among team members;~~

~~d. The capacity to provide the full range of assertive community treatment services as stated in this paragraph;~~

~~e. Demonstrated experience in serving individuals with persistent and serious mental illness who have difficulty living independently in the community;~~

~~f. The administrative capacity to ensure quality of services;~~

~~g. A financial management system that provides documentation of services and costs; and~~

~~h. The capacity to document and maintain individual case records.~~

~~(g)1.] Intensive outpatient program services shall:~~

a. Be an alternative to inpatient hospitalization or partial hospitalization for a mental health or substance use disorder;

b. Offer a multi-modal, multi-disciplinary structured outpatient treatment program that is significantly more intensive than individual outpatient therapy, group outpatient therapy, or family outpatient therapy; and

c. Be provided at least three (3) hours per day at least three (3) days per week; and

d. Include:

(i) Individual outpatient therapy, group outpatient therapy, or family outpatient therapy unless contraindicated;

(ii) Crisis intervention; or



1 (iii) Psycho-education.

2 2. During psycho-education, the recipient or family member shall be:

3 a. Provided with knowledge regarding the recipient's diagnosis, the causes of the  
4 condition, and the reasons why a particular treatment might be effective for reducing  
5 symptoms; and

6 b. Taught how to cope with the recipient's diagnosis or condition in a successful  
7 manner.

8 3. An intensive outpatient program treatment plan shall:

9 a. Be individualized; and

10 b. Focus on stabilization and transition to a lesser level of care.

11 4. To provide intensive outpatient program services, an RHC shall have:

12 a. Access to a board-certified or board-eligible psychiatrist for consultation;

13 b. Access to a psychiatrist, other physician, or advanced practiced registered nurse  
14 for medication **prescribing and monitoring**[management];

15 c. Adequate staffing to ensure a minimum recipient-to-staff ratio of **fifteen (15) to**  
16 **one (1)**[four (4) recipients to one (1) staff];

17 d. The capacity to provide services utilizing a recognized intervention protocol based  
18 on recovery principles;

19 e. The capacity to employ staff authorized to provide intensive outpatient program  
20 services in accordance with subsection (3)(q) of this section and to coordinate the pro-  
21 vision of services among team members;

22 f. The capacity to provide the full range of intensive outpatient program services as  
23 stated in this paragraph;

- g. Demonstrated experience in serving individuals with behavioral health disorders;
- h. The administrative capacity to ensure quality of services;
- i. A financial management system that provides documentation of services and costs; and
- j. The capacity to document and maintain individual case records.

**(o)1. ~~(r)1. Residential crisis stabilization services shall be provided in a crisis stabilization unit.~~**

**~~2. A crisis stabilization unit shall:~~**

**~~a. Be a community-based, residential program that offers an array of services including:~~**

**~~(i) Screening;~~**

**~~(ii) Assessment;~~**

**~~(iii) Treatment planning;~~**

**~~(iv) Individual outpatient therapy;~~**

**~~(v) Family outpatient therapy;~~**

**~~(vi) Group outpatient therapy; and~~**

**~~(vii) Psychiatric services;~~**

**~~b. Provide services in order to:~~**

**~~(i) Stabilize a crisis and divert an individual from a higher level of care;~~**

**~~(ii) Stabilize an individual and provide treatment for acute withdrawal, if applicable; and~~**

**~~(iii) Re-integrate the individual into the individual's community or other appropriate setting in a timely fashion;~~**

- ~~c. Not be part of a hospital;~~
- ~~d. Be used when an individual:~~
- ~~(i) Is experiencing a behavioral health emergency that cannot be safely accommodated within the individual's community; and~~
- ~~(ii) Needs overnight care that is not hospitalization;~~
- ~~e. Not contain more than sixteen (16) beds; and~~
- ~~f. Not be part of multiple units comprising one (1) facility with more than sixteen (16) beds in aggregate.~~
- ~~3. Residential crisis stabilization shall not include:~~
- ~~a. Room and board;~~
- ~~b. Educational services;~~
- ~~c. Vocational services;~~
- ~~d. Job training services;~~
- ~~e. Habilitation services;~~
- ~~f. Services to an inmate in a public institution pursuant to 42 C.F.R. 435.1010;~~
- ~~g. Services to an individual residing in an institution for mental diseases pursuant to 42 C.F.R. 435.1010;~~
- ~~h. Recreational activities;~~
- ~~i. Social activities; or~~
- ~~j. Services required to be covered elsewhere in the state plan.~~
- ~~4. To provide residential crisis stabilization services, an RHC shall have:~~
- ~~a. The capacity to employ staff authorized to provide residential crisis stabilization services in accordance with subsection (3)(r) of this section and to coordi-~~

~~nate the provision of services among team members;~~

~~b. The capacity to provide the full range of residential crisis stabilization services as stated in this paragraph and on a twenty four (24) hour a day, seven (7) day a week, every day of the year basis;~~

~~c. Access to a board certified or board-eligible psychiatrist twenty-four (24) hours a day, seven (7) days a week, every day of the year;~~

~~d. Demonstrated experience in serving individuals with behavioral health disorders;~~

~~e. The administrative capacity to ensure the quality of services;~~

~~f. A financial management system that provides documentation of services and costs;~~

~~g. The capacity to document and maintain individual case records; and~~

~~h. Knowledge of substance use disorders.~~

~~(s)1. Residential services for substance use disorders shall:~~

~~a. Be provided in twenty-four (24) hour per day units;~~

~~b. Be short or long term to provide intensive treatment and skills building in a structured and supportive environment;~~

~~c. Assist an individual in abstaining from alcohol or substance use and in entering alcohol or drug addiction recovery;~~

~~d. Be provided in a twenty-four (24) hour a day, live-in facility that offers a planned and structured regimen of care aimed to treat individuals with addiction or co-occurring mental health and substance use disorders;~~

~~e. Assist a recipient in making necessary changes in the recipient's life to ena-~~

~~ble the recipient to live drug- or alcohol-free;~~

~~— f. Last less than thirty (30) days;~~

~~— g. Be provided under the medical direction of a physician;~~

~~— h. Provide continuous nursing services;~~

~~— i. Be based on individual need and may include:~~

~~— (i) Screening;~~

~~— (ii) Assessment;~~

~~— (iii) Service planning;~~

~~— (iv) Individual outpatient therapy;~~

~~— (v) Group outpatient therapy; or~~

~~— (vi) Family outpatient therapy; and~~

~~— j. Be provided in accordance with 908 KAR 1:370.~~

~~2. A residential service for substance use disorder building shall have more than eight (8) but less than seventeen (17) beds.~~

~~3. A short-term length-of-stay for residential services for a substance use disorder shall:~~

~~— a. Be between fourteen (14) and twenty-eight (28) days in duration;~~

~~— b. Include planned clinical program activities constituting at least fifteen (15)~~

~~hours per week of structured professionally-directed treatment activities to:~~

~~— (i) Stabilize and maintain a person's substance use disorder; and~~

~~— (ii) Help the recipient develop and apply recovery skills; and~~

~~— c. May include the services listed in subparagraph 1.i. of this paragraph.~~

~~4. A long-term length-of-stay for residential services for a substance use disorder~~

der shall:

— a. Be between twenty-eight (28) days and ninety (90) days in duration;

— b. Include planned clinical program activities constituting at least forty (40) hours per week of structured professionally-directed treatment activities to:

— (i) Stabilize and maintain a person's substance use disorder; and

— (ii) Help the recipient develop and apply recovery skills; and

— c. May include the services listed in subparagraph 1.i. of this paragraph.

5. Residential services for a substance use disorder shall not include:

— a. Room and board;

— b. Educational services;

— c. Vocational services;

— d. Job training services;

— e. Habilitation services;

— f. Services to an inmate in a public institution pursuant to 42 C.F.R. 435.1010;

— g. Services to an individual residing in an institution for mental diseases pursuant to 42 C.F.R. 435.1010;

— h. Recreational activities;

— i. Social activities; or

— j. Services required to be covered elsewhere in the state plan.

6. The physical structure in which residential services for a substance use disorder are provided shall not:

— a. Contain more than sixteen (16) beds; and

— b. Be part of multiple units comprising one (1) facility with more than sixteen

1 ~~(16) beds in aggregate.~~

2 ~~7. To provide residential services for a substance use disorder, an RHC shall:~~

3 ~~a. Have the capacity to employ staff authorized to provide residential services~~  
4 ~~for a substance use disorder in accordance with subsection (3)(s) of this section~~  
5 ~~and to coordinate the provision of services among team members;~~

6 ~~b. Have the capacity to provide the full range of residential services for a sub-~~  
7 ~~stance use disorder as stated in this paragraph;~~

8 ~~c. Have demonstrated experience in serving individuals with behavioral health~~  
9 ~~disorders;~~

10 ~~d. Have the administrative capacity to ensure quality of services;~~

11 ~~e. Have a financial management system that provides documentation of ser-~~  
12 ~~vices and costs;~~

13 ~~f. Have the capacity to document and maintain individual case records; and~~

14 ~~g. Be licensed as a nonmedical and nonhospital based alcohol and other drug~~  
15 ~~abuse treatment program in accordance with 908 KAR 1:370.~~

16 ~~(t)1.] Therapeutic rehabilitation program services shall:~~

17 ~~a. Occur at the provider's site or in the community;~~

18 ~~b. Be provided to an adult with a severe mental illness or to a child (under the age of~~  
19 ~~twenty-one (21) years) to enhance skills and offer experiential learning opportunities~~  
20 ~~that are aligned with treatment goals and recovery principles;~~

21 ~~c. Not be a residential program; and~~

22 ~~d. Be a day program based on the Fountain House clubhouse model of psychosocial~~  
23 ~~rehabilitation for individuals with a serious mental illness.~~

2. To provide therapeutic rehabilitation program services, an RHC shall:

a. Have the capacity to employ staff authorized to provide therapeutic rehabilitation program services in accordance with subsection (3)(t) of this section and to coordinate the provision of services among team members;

b. Have the capacity to provide the full range of therapeutic rehabilitation program services as stated in this paragraph;

c. Have demonstrated experience in serving individuals with mental health disorders;

d. Have the administrative capacity to ensure quality of services;

e. Have a financial management system that provides documentation of services and costs; and

f. Have the capacity to document and maintain individual case records.

**~~[(u)1. Parent or family peer support services shall:~~**

**~~a. Be emotional support that is provided by a parent or family member of a child who is experiencing a mental health disorder, a substance use disorder, or co-occurring mental health and substance use disorders to a parent or family member with a child sharing a similar mental health disorder, a substance use disorder, or co-occurring mental health and substance use disorders in order to bring about a desired social or personal change;~~**

**~~b. Be an evidence-based practice;~~**

**~~c. Be structured and scheduled nonclinical therapeutic activities with an individual recipient or a group of recipients;~~**

**~~d. Be provided by a self-identified parent or family member of a child consumer of mental health disorder services, substance use disorder services, or co-~~**



~~occurring mental health and substance use disorders services who has been  
trained and certified in accordance with 908 KAR 2:230;~~

~~e. Promote socialization, recovery, self-advocacy, preservation, and enhance-  
ment of community living skills for the recipient; and~~

~~f. Be identified in each recipient's treatment plan.~~

~~2. To provide parent or family peer support services, a provider shall:~~

~~a. Have demonstrated the capacity to provide the core elements of parent or  
family peer support services for the behavioral health population being served  
including the age range of the population being served;~~

~~b. Employ family peer support specialists who are qualified to provide family  
peer support services in accordance with 908 KAR 2:230;~~

~~c. Use a qualified mental health professional to supervise family peer support  
specialists;~~

~~d. Have the capacity to employ staff authorized to provide parent or family peer  
support in accordance with subsection (2)(u) of this section and to coordinate the  
provision of services among team members;~~

~~e. Have the capacity to provide the full range of comprehensive community  
support services as stated in subparagraph 1 of this paragraph;~~

~~f. Have demonstrated experience in serving individuals with behavioral health  
disorders;~~

~~g. Have the administrative capacity to ensure quality of services;~~

~~h. Have a financial management system that provides documentation of ser-  
vices and costs; and~~

1 ~~i. Have the capacity to document and maintain individual case records.]~~

2 (5)(a) The following requirements shall apply to any provider of a service to a recipi-  
3 ent for a substance use disorder or co-occurring mental health and substance use dis-  
4 orders:

5 1. The licensing requirements established in 908 KAR 1:370;

6 2. The physical plant requirements established in 908 KAR 1:370;

7 3. The organization and administration requirements established in 908 KAR 1:370;

8 4. The personnel policy requirements established in 908 KAR 1:370;

9 5. The quality assurance requirements established in 908 KAR 1:370;

10 6. The clinical staff requirements established in 908 KAR 1:370;

11 7. The program operational requirements established in 908 KAR 1:370; and

12 8. The outpatient program requirements established in 908 KAR 1:370.

13 (b) The detoxification program requirements established in 908 KAR 1:370 shall ap-  
14 ply to a provider of a detoxification service.

15 (6) The extent and type of assessment performed at the time of a screening shall  
16 depend upon the problem of the individual seeking or being referred for services.

17 (7) A diagnosis or clinic impression shall be made using terminology established in  
18 the most current edition of the American Psychiatric Association Diagnostic and Statis-  
19 tical Manual of Mental Disorders.

20 (8)(a) Direct contact between a provider or practitioner and a recipient shall be re-  
21 quired for each service except for a collateral service for a child under the age of twen-  
22 ty-one (21) years if the collateral service is in the child's plan of care.

23 (b) A service that does not meet the requirement in paragraph (a) of this subsection

1 shall not be covered.

2 (9) A billable unit of service shall be actual time spent delivering a service in a face-  
3 to-face encounter.

4 (10) A service shall be:

5 (a) Stated in a recipient's treatment plan;

6 (b) Provided in accordance with a recipient's treatment plan;

7 (c) Provided on a regularly scheduled basis except for a screening or assessment;

8 and

9 (d) Made available on a nonscheduled basis if necessary during a crisis or time of in-  
10 creased stress for the recipient.

11 (11) The following services or activities shall not be covered under this administrative  
12 regulation:

13 (a) A behavioral health service provided to:

14 1. A resident of:

15 a. A nursing facility; or

16 b. An intermediate care facility for individuals with an intellectual disability;

17 2. An inmate of a federal, local, or state:

18 a. Jail;

19 b. Detention center; or

20 c. Prison; or

21 3. An individual with an intellectual disability without documentation of an additional  
22 psychiatric diagnosis;

23 (b) Psychiatric or psychological testing for another agency, including a court or

school, that does not result in the individual receiving psychiatric intervention or behavioral health therapy from the independent provider;

(c) A consultation or educational service provided to a recipient or to others;

(d) Collateral outpatient therapy for an individual aged twenty-one (21) years or older;

(e) A telephone call, an email, a text message, or other electronic contact that does not meet the requirements stated in the definition of face-to-face;

(f) Travel time;

(g) A field trip;

(h) A recreational activity;

(i) A social activity; or

(j) A physical exercise activity group.

(12)(a) A consultation by one (1) provider or professional with another shall not be covered except as specified in Section 3(4)(i) of this administrative regulation.

(b) A third party contract shall not be covered under this administrative regulation.

Section 5. Provision of Services. An RHC shall comply with the service provision requirements established by 42 C.F.R. 491.9.

Section 6.~~[4.]~~ Immunizations. An RHC shall provide, upon request from a recipient, the following covered immunizations:

(1) Diphtheria and tetanus toxoids and pertussis vaccine (DPT);

(2) Measles, mumps, and rubella virus vaccine live (MMR);

(3) Poliovirus vaccine, live, oral (any type(s)) (OPV); or

(4) Hemophilus B conjugate vaccine (HBCV).

Section 7. Medical Necessity Requirement. To be covered pursuant to this adminis-

1 trative regulation, a service shall be:

2 (1) Medically necessary for the recipient; and

3 (2) Provided to a recipient.

4 Section 8. Noncovered Services. (1) The following services shall not be covered as  
5 rural health clinic services:

6 (a) Services provided in a hospital as defined in 42 U.S.C. 1395x(e);

7 (b) Institutional services;

8 (c) Housekeeping, babysitting, or other similar homemaker services;

9 (d) Services which are not provided in accordance with restrictions imposed by law or

10 administrative regulation;

11 (e) A behavioral health service provided to:

12 1. A resident of:

13 a. A nursing facility; or

14 b. An intermediate care facility for individuals with an intellectual disability;

15 2. An inmate of a federal, local, or state:

16 a. Jail;

17 b. Detention center; or

18 c. Prison; or

19 3. An individual with an intellectual disability without documentation of an additional  
20 psychiatric diagnosis;

21 (f) Psychiatric or psychological testing for another agency, including a court or  
22 school, that does not result in the individual receiving psychiatric intervention or behav-  
23 ioral health therapy from the independent provider;

1 (g) A consultation or educational service provided to a recipient or to others;

2 (h) Collateral outpatient therapy for an individual aged twenty-one (21) years or older;

3 (i) A telephone call, an email, a text message, or other electronic contact that does  
4 not meet the requirements stated in the definition of face-to-face;

5 (j) Travel time;

6 (k) A field trip;

7 (l) A recreational activity;

8 (m) A social activity; or

9 (n) A physical exercise activity group.

10 (2)(a) A consultation by one (1) provider or professional with another shall not be  
11 covered except as specified in Section 2(2)(k) of this administrative regulation.

12 (b) A third party contract shall not be covered under this administrative regulation.

13 Section 9. No Duplication of Service. (1) The department shall not reimburse for a  
14 service provided to a recipient by more than one (1) provider of any program in which  
15 the service is covered during the same time period.

16 (2) For example, if a recipient is receiving a service from an independent behavioral  
17 health service provider, the department shall not reimburse for the same service pro-  
18 vided to the same recipient during the same time period by a rural health clinic.

19 Section 10. Protection, Security and Records Maintenance Requirements for All Ser-  
20 vices. (1)(a) A provider shall maintain a current health record for each recipient.

21 (b)1. A health record shall document each service provided to the recipient including  
22 the date of the service and the signature of the individual who provided the service.

23 2. The individual who provided the service shall date and sign the health record on

1 the date that the individual provided the service.

2 (2)(a) Except as established in paragraph (b) of this subsection, a provider shall  
3 maintain a health record regarding a recipient for at least five (5) years from the date of  
4 the service or until any audit dispute or issue is resolved beyond five (5) years.

5 (b) If the secretary of the United States Department of Health and Human Services  
6 requires a longer document retention period than the period referenced in paragraph (a)  
7 of this subsection, pursuant to 42 C.F.R. 431.17, the period established by the secre-  
8 tary shall be the required period.

9 (3)(a) A provider shall comply with 45 C.F.R. Part 164.

10 (b) All information contained in a health record shall:

11 1. Be treated as confidential;

12 2. Not be disclosed to an unauthorized individual; and

13 3. If requested, be disclosed to an authorized representative of:

14 a. The department; or

15 b. Federal government.

16 (c)1. Upon request, a provider shall provide to an authorized representative of the  
17 department or federal government information requested to substantiate:

18 a. Staff notes detailing a service that was rendered;

19 b. The professional who rendered a service; and

20 c. The type of service rendered and any other requested information necessary to  
21 determine, on an individual basis, whether the service is reimbursable by the depart-  
22 ment.

23 2. Failure to provide information referenced in subparagraph 1 of this paragraph shall

result in denial of payment for any service associated with the requested information.

Section 11. Documentation and Records Maintenance Requirements for Behavioral Health Services. (1) The requirements in this section shall apply to health records associated with behavioral health services.

(2) A health record shall:

(a) Include:

1. An identification and intake record including:

a. Name;

b. Social Security number;

c. Date of intake;

d. Home (legal) address;

e. Health insurance information;

f. Referral source and address of referral source;

g. Primary care physician and address;

h. The reason the individual is seeking help including the presenting problem and diagnosis;

i. Any physical health diagnosis, if a physical health diagnosis exists for the individual, and information regarding:

(i) Where the individual is receiving treatment for the physical health diagnosis; and

(ii) The physical health provider; and

k. The name of the informant and any other information deemed necessary by the independent provider to comply with the requirements of:

(i) This administrative regulation;



1 (ii) The provider's licensure board;

2 (iii) State law; or

3 (iv) Federal law;

4 2. Documentation of the:

5 a. Screening;

6 b. Assessment;

7 c. Disposition; and

8 d. Six (6) month review of a recipient's treatment plan each time a six (6) month re-  
9 view occurs;

10 3. A complete history including mental status and previous treatment;

11 4. An identification sheet;

12 5. A consent for treatment sheet that is accurately signed and dated; and

13 6. The individual's stated purpose for seeking services; and

14 (b) Be:

15 1. Maintained in an organized central file;

16 2. Furnished to the Cabinet for Health and Family Services upon request;

17 3. Made available for inspection and copying by Cabinet for Health and Family Ser-  
18 vices' personnel;

19 4. Readily accessible; and

20 5. Adequate for the purpose establishing the current treatment modality and progress  
21 of the recipient.

22 (3) Documentation of a screening shall include:

23 (a) Information relative to the individual's stated request for services; and

1 (b) Other stated personal or health concerns if other concerns are stated.

2 (4)(a) A provider's notes regarding a recipient shall:

3 1. Be made within forty-eight (48) hours of each service visit; and

4 2. Describe the:

5 a. Recipient's symptoms or behavior, reaction to treatment, and attitude;

6 b. Therapist's intervention;

7 c. Changes in the treatment plan if changes are made; and

8 d. Need for continued treatment if continued treatment is needed.

9 (b)1. Any edit to notes shall:

10 a. Clearly display the changes; and

11 b. Be initialed and dated.

12 2. Notes shall not be erased or illegibly marked out.

13 (c)1. Notes recorded by a practitioner working under supervision shall be co-signed  
14 and dated by the supervising professional providing the service.

15 2. If services are provided by a practitioner working under supervision, there shall be  
16 a monthly supervisory note recorded by the supervising professional reflecting consulta-  
17 tions with the practitioner working under supervision concerning the:

18 a. Case; and

19 b. Supervising professional's evaluation of the services being provided to the recipi-  
20 ent.

21 (5) Immediately following a screening of a recipient, the provider shall perform a dis-  
22 position related to:

23 (a) An appropriate diagnosis;

1 (b) A referral for further consultation and disposition, if applicable; and

2 (c)1. Termination of services and referral to an outside source for further services; or

3 2. Termination of services without a referral to further services.

4 (6)(a) A recipient's treatment plan shall be reviewed at least once every six (6)  
5 months.

6 (b) Any change to a recipient's treatment plan shall be documented, signed, and dat-  
7 ed by the rendering provider.

8 (7)(a) Notes regarding services to a recipient shall:

9 1. Be organized in chronological order;

10 2. Dated;

11 3. Titled to indicate the service rendered;

12 4. State a starting and ending time for the service; and

13 5. Be recorded and signed by the rendering provider and include the professional ti-  
14 tle (for example, licensed clinical social worker) of the provider.

15 (b) Initials, typed signatures, or stamped signatures shall not be accepted.

16 (c) Telephone contacts, family collateral contacts not coverable under this adminis-  
17 trative regulation, or other nonreimbursable contacts shall:

18 1. Be recorded in the notes; and

19 2. Not be reimbursable.

20 (8)(a) A termination summary shall:

21 1. Be required, upon termination of services, for each recipient who received at least  
22 three (3) service visits; and

23 2. Contain a summary of the significant findings and events during the course of

treatment including the:

a. Final assessment regarding the progress of the individual toward reaching goals

and objectives established in the individual's treatment plan;

b. Final diagnosis of clinical impression; and

c. Individual's condition upon termination and disposition.

(b) A health record relating to an individual who terminated from receiving services

shall be fully completed within ten (10) days following termination.

(9) If an individual's case is reopened within ninety (90) days of terminating services

for the same or related issue, a reference to the prior case history with a note regarding

the interval period shall be acceptable.

(10) If a recipient is transferred or referred to a health care facility or other provider

for care or treatment, the transferring provider shall, if the recipient gives the provider

written consent to do so, forward a copy or summary of the recipient's health record to

the health care facility or other provider who is receiving the recipient.

(11)(a) If a provider's Medicaid Program participation status changes as a result of

voluntarily terminating from the Medicaid Program, involuntarily terminating from the

Medicaid Program, a licensure suspension, or death of the provider, the health records

of the provider shall:

1. Remain the property of the provider; and

2. Be subject to the retention requirements established in subsection (13) of this sec-

tion.

(b) A provider shall have a written plan addressing how to maintain health records in

the event of the provider's death.

1     Section 12. Medicaid Program Participation Requirements. (1)(a) A participating  
2     RHC shall be currently:

3         1. Enrolled in the Kentucky Medicaid Program in accordance with 907 KAR 1:672;  
4     and

5         2. Except as established in paragraph (b) of this subsection, participating in the Ken-  
6     tucky Medicaid Program in accordance with 907 KAR 1:671.

7         (b) In accordance with 907 KAR 17:015, Section 3(3), a provider of a service to an  
8     enrollee shall not be required to be currently participating in the **fee-for-service** Medi-  
9     caid Program[~~if the managed care organization in which the enrollee is enrolled~~  
10    ~~does not require the provider to be currently participating in the Medicaid Pro-~~  
11    gram].

12        (2)(a) To be initially enrolled with the department, an RHC shall:

13           1. Enroll in accordance with 907 KAR 1:672; and

14           2. Submit proof of its certification by the United States Department of Health and  
15    Human Services, Health Resources and Services Administration as an RHC.

16        (b) To remain enrolled and participating in the Kentucky Medicaid Program, an RHC  
17    shall:

18           1. Comply with the enrollment requirements established in 907 KAR 1:672;

19           2. Comply with the participation requirements established in 907 KAR 1:671; and

20           3. Annually submit proof of its certification by the United States Department of Health  
21    and Human Services, Health Resources and Services Administration as an RHC to the  
22    department.

23        (3) An RHC that has been terminated from federal participation shall be terminated

1 from Kentucky Medicaid Program participation.

2 (4) A participating RHC and its staff shall comply with all applicable federal laws and  
3 regulations, state laws and administrative regulations, and local laws and regulations  
4 regarding the administration and operation of an RHC.

5 (5)(a) If an RHC receives any duplicate payment or overpayment from the depart-  
6 ment, regardless of reason, the provider shall return the payment to the department.

7 (b) Failure to return a payment to the department in accordance with paragraph (a) of  
8 this subsection may be:

9 1. Interpreted to be fraud or abuse; and

10 2. Prosecuted in accordance with applicable federal or state law.

11 Section 13. Third Party Liability. A provider shall comply with KRS 205.622.

12 Section 14. Use of Electronic Signatures. (1) The creation, transmission, storage,  
13 and other use of electronic signatures and documents shall comply with the require-  
14 ments established in KRS 369.101 to 369.120.

15 (2) A provider that chooses to use electronic signatures shall:

16 (a) Develop and implement a written security policy that shall:

17 1. Be adhered to by each of the provider's employees, officers, agents, or contrac-  
18 tors;

19 2. Identify each electronic signature for which an individual has access; and

20 3. Ensure that each electronic signature is created, transmitted, and stored in a se-  
21 cure fashion;

22 (b) Develop a consent form that shall:

23 1. Be completed and executed by each individual using an electronic signature;

1 2. Attest to the signature's authenticity; and

2 3. Include a statement indicating that the individual has been notified of his or her re-  
3 sponsibility in allowing the use of the electronic signature; and

4 (c) Provide the department with:

5 1. A copy of the provider's electronic signature policy;

6 2. The signed consent form; and

7 3. The original filed signature immediately upon request.

8 Section 15. Auditing Authority. The department shall have the authority to audit any:

9 (1) Claim;

10 (2) Medical record; or

11 (3) Documentation associated with any claim or medical record.

12 Section 16. Federal Approval and Federal Financial Participation. The department's  
13 coverage of services pursuant to this administrative regulation shall be contingent upon:

14 (1) Receipt of federal financial participation for the coverage; and

15 (2) Centers for Medicare and Medicaid Services' approval for the coverage.

16 Section 17. Appeals. (1) An appeal of an adverse action by the department regarding  
17 a service and a recipient who is not enrolled with a managed care organization shall be  
18 in accordance with 907 KAR 1:563.

19 (2) An appeal of an adverse action by a managed care organization regarding a ser-  
20 vice and an enrollee shall be in accordance with 907 KAR 17:010.

907 KAR 1:082

REVIEWED:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Lawrence Kissner, Commissioner  
Department for Medicaid Services

APPROVED:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Audrey Tayse Haynes, Secretary  
Cabinet for Health and Family Services



## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 907 KAR 1:082

Contact person: Stuart Owen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the coverage provisions and requirements regarding Medicaid Program rural health clinic (RHC) services.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the coverage provisions and requirements regarding Medicaid Program RHC services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the coverage provisions and requirements regarding Medicaid Program RHC services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes by establishing the coverage provisions and requirements regarding Medicaid Program RHC services.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The primary amendment authorizes rural health clinics to provide substance use disorder services and expands these providers' scope of behavioral health services as well as expands the types of practitioners/professionals who can provide behavioral health services in a rural health clinic. Additional amendments include inserting various program integrity requirements such as requiring RHCs to bill third parties for services if a third party is involved and not duplicate bill for a service provided to the recipient by another provider. Other amendments include establishing that RHCs must comply with records maintenance/security requirements and Medicaid provider participation requirements. A new section is added to authorize RHCs to utilize electronic signatures. Another section is added to establish that the coverage provisions and requirements in this administrative regulation are contingent upon federal approval and federal funding. Another new section clarifies that The Department for Medicaid Services (DMS) can audit any claim or medical record or documentation associated with any claim or medical record. Lastly, a section establishing recipient appeal rights regarding an adverse action is added. The amendment after comments deletes peer support services and parent or family peer support services from the services covered under this administrative regulation; deletes peer support specialists, family peer support specialists, and youth peer support specialists as authorized practitioners of services in this administrative regulation; deletes mobile crisis services, assertive community treatment, residential crisis stabilization services, and residential services for substance use disorders from the services covered under this administrative regulation; clarifies that advanced practice registered nurses may provide medication assisted treatment; clarifies that "medication prescribing

and monitoring” rather than “medication management” is the appropriate term; clarifies that a licensed psychological practitioner includes a certified psychologist with autonomous functioning; clarifies that a licensed psychological associate includes a certified psychologist; removes the requirement that services furnished by an advanced practice registered nurse (APRN) must be supervised by a physician; clarifies that “crisis intervention” must be provided on-site at the rural health clinic; and deletes the term “nurse midwife” from the administrative regulation.

(b) The necessity of the amendment to this administrative regulation: The primary amendment – amendment related to substance use disorder services and mental health services – is necessary to comply with a federal mandate. Section 1302(b)(1)(E) of the Affordable Care Act mandates that "essential health benefits" for Medicaid programs include "mental health and substance use disorder services, including behavioral health treatment." Additionally, the Department for Medicaid Services (DMS) is anticipating a substantial increase in demand for services as a result of new individuals gaining Medicaid eligibility in 2014. Some new individuals will be those eligible as part of the "expansion group" (a new eligibility group authorized by the Affordable Care Act which is comprised of adults under age sixty-five (65), who are not pregnant, whose income is below 133 percent of the federal poverty level, and who are not otherwise eligible for Medicaid.) Another newly eligible group is a group mandated by the Affordable Care Act comprised of former foster care children between the ages of nineteen (19) and twenty-six (26) who aged out of foster care while receiving Medicaid benefits. Furthermore, DMS anticipates a significant enrollment increase of individuals eligible under the "old" Medicaid rules who did not seek Medicaid benefits in the past, but will do so as a result of publicity related to the Affordable Care Act, Medicaid expansion, and the Health Benefit Exchange. The Medicaid Program is required to ensure that recipients have access to services. Other amendments are necessary to enhance program integrity requirements, establish that provisions and requirements are contingent upon federal funding (in order to protect state taxpayer generated funds), and establish appeal rights for Medicaid recipients. The amendments after comments which delete services and practitioners are necessary as the Centers for Medicare and Medicaid Services (CMS) did not approve those practitioners or services in the settings addressed in this administrative regulation and/or the services are beyond the scope of services authorized for these facilities pursuant to their licensure category. Adding advanced practice registered nurses to the authorized practitioners of medication assisted treatment is necessary as they are qualified to provide that service. Correcting the term “medication management” to “medication prescribing and monitoring” is necessary to comport with CMS guidance. Eliminating the requirement that an APRN be supervised by a physician is necessary as Kentucky law does not require this. Delete the term “nurse midwife” from the administrative regulation is necessary as nurse midwives are included in the definition of the term “advanced practice registered nurse.” Clarifying that “crisis intervention” must occur on-site at the rural health clinic is necessary to comport with the state plan amendment approved by CMS.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by complying with an Affordable Care Act mandate, enhancing recipient access to services, enhancing program integrity requirements, protecting state taxpayer generated funds, and establish-

ing appeal rights for Medicaid recipients. The amendments after comments conform to the content of the authorizing statutes by synchronizing policies with those approved by CMS.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the authorizing statutes by complying with an Affordable Care Act mandate, enhancing recipient access to services, enhancing program integrity requirements, protecting state taxpayer generated funds, and establishing appeal rights for Medicaid recipients. The amendments after comments assist in the effective administration of the authorizing statutes by synchronizing policies with those approved by CMS.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Rural health clinics will be affected by this amendment. Additionally, licensed psychologists, advanced practice registered nurses, licensed professional clinical counselors, licensed clinical social workers, licensed marriage and family therapists, licensed psychological practitioners, licensed psychological associates, certified social workers (master's level), licensed professional counselor associates, and marriage and family therapy associates who wish to provide substance use disorder services or the enhanced behavioral health services (established in this amendment) while working for or under contract with an RHC will also be affected by this administrative regulation. Medicaid recipients who qualify for substance use disorder services or the enhanced scope of behavioral health services will be affected by this amendment.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. RHCs will need to ensure that they use the practitioners authorized in this administrative regulation to provide the new scope of services (expanded behavioral health services and substance use disorder services) if the given RHC wishes to expand its scope of services accordingly.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). No cost is anticipated as expanding the scope of services is voluntary.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). RHCs will benefit by being authorized to provide more services. The expanded types of behavioral health practitioners/professionals will benefit by having more employment opportunities in which to provide services. Medicaid recipients will benefit by having enhanced access to behavioral health services including substance use disorder services.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: DMS is unable to accurately estimate the costs of expanding the scope of

behavioral health services covered in rural health clinics due to the variables involved as DMS cannot estimate how many rural health clinics will choose to accordingly expand their scope of services nor how many Medicaid recipients will elect to receive the expanded scope of behavioral health services in rural health clinics.

(b) On a continuing basis: The response in paragraph (a) above also applies here.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under the Social Security Act, Title XIX and matching funds of general fund appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. Neither an increase in fees nor funding is necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering is not applied as the policies apply equally to the regulated entities.

## FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Section 1302(b)(1)(E) of the Affordable Care Act, 42 U.S.C. 1396a(a)(10)(B), 42 U.S.C. 1396a(a)(23), 42 U.S.C. 1396d(a)(2)

2. State compliance standards. KRS 205.520(3) states: "Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

3. Minimum or uniform standards contained in the federal mandate. Section 1302(b)(1)(E) of the Affordable Care Act mandates that "essential health benefits" for Medicaid programs include "mental health and substance use disorder services, including behavioral health treatment." 42 U.S.C. 1396a(a)(23), is known as the freedom of choice of provider mandate. This federal law requires the Medicaid Program to "provide that (A) any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services." Medicaid recipients enrolled with a managed care organization may be restricted to providers within the managed care organization's provider network. The Centers for Medicare and Medicaid Services (CMS) – the federal agency which oversees and provides the federal funding for Kentucky's Medicaid Program – has expressed to the Department for Medicaid Services (DMS) the need for DMS to expand its substance use disorder provider base to comport with the freedom of choice of provider requirement. 42 U.S.C. 1396a(a)(10)(B) requires the Medicaid Program to ensure that services are available to Medicaid recipients in the same amount, duration, and scope. Expanding the provider base will help ensure Medicaid recipient access to services statewide and reduce or prevent the lack of availability of services due to demand exceeding supply in any given area. 42 U.S.C. 1396d(a)(2) requires Medicaid program coverage of: "(A) outpatient hospital services, (B) consistent with State law permitting such services, rural health clinic services (as defined in subsection (l)(1)) and any other ambulatory services which are offered by a rural health clinic (as defined in subsection (l)(1)) and which are otherwise included in the plan, and (C) Federally-qualified health center services (as defined in subsection (l)(2) and any other ambulatory services offered by a Federally-qualified health center and which are otherwise included in the plan."

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter than federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different re-

sponsibilities or requirements. The administrative regulation does not impose stricter than federal requirements.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services will be affected by the amendment to this administrative regulation as will any RHC owned by a local government agency.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation authorizes the action taken by this administrative regulation.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The Department for Medicaid Services (DMS) is unable to project the impact of this amendment on revenues for state or local government agencies as it depends on how many rural health clinics that are owned by a government entity elect to expand their scope of services to include substance use disorder services and other new behavioral health services and on utilization of those services in such entities.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The response to question (a) also applies here.

(c) How much will it cost to administer this program for the first year? DMS is unable to accurately estimate the costs of expanding the scope of behavioral health services covered in rural health clinics due to the variables involved as DMS cannot estimate how many rural health clinics will choose to accordingly expand their scope of services nor how many Medicaid recipients will elect to receive the expanded scope of behavioral health services in rural health clinics.

(d) How much will it cost to administer this program for subsequent years? The response to question (c) above also applies here.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: